

United States  
Department of  
Agriculture  
Forest  
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March 2004

# **Accessibility Guidebook for Outfitters/Guides Operating on Public Lands**

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***Large Photo:*** *Wilderness Inquiry in the Queen Charlotte Islands (Photo by G. Lais).*

***Small Photos at bottom of cover . . . from left to right:***

- 1. Hikers enjoy a trail in the White Mt. National Forest (Photo by USDA Forest Service).*
- 2. The freedom of paddling a sea kayak (Photo by USDA Forest Service).*
- 3. Dog sledding with Wilderness Inquiry (Photo by USDA Forest Service).*
- 4. Hiker who is blind explores the shape of the canyon wall (Photo by BLM).*

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## **PREFACE**

The purpose of this guidebook is to provide support for outfitters/guides authorized, under a special-use permit from U.S. Department of Agriculture (USDA) Forest Service, to provide recreation opportunities on public lands. By working together, the agency and the outfitter/guide can ensure equal opportunity for all people, including people with disabilities. This can be accomplished while ensuring the participants safety and preserving the recreation experience provided by the outfitter/guide.

Outfitters/guides operating under special-use authorization from USDA Forest Service are required to comply with both the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504). The ADA applies because the outfitters/guides operate as “public accommodation,” that is they are open to the public. Section 504 applies because outfitters/guides operate under special-use permits authorized by a Federal agency—the USDA Forest Service. Implementation guidelines for Section 504, which apply to recreation special-use permit holders, are located in USDA 7 CFR 15b. By signing the special-use authorization, the outfitter/guide agrees to abide by these and all other laws, regulations, and policies of the Federal Government.

## **DISCLAIMER**

The information in this guidebook must not be construed as recommended or approved policy, procedures, or mandatory instructions. The USDA Forest Service assumes no responsibility for the inappropriate application of the information. Those who make use of this guidebook are responsible for the accessibility and the safety of the programs they plan, design, and manage.

## **ACKNOWLEDGMENTS**

Much of the philosophical framework for this guidebook was developed by Greg Lais and staff members from Wilderness Inquiry, as published in the draft “Universal Access: Guidelines for Outfitters Operating on Public Lands” (Wilderness Inquiry, Inc., 1995). We appreciate their willingness to share that information with a wider audience.

We would also like to graciously thank Peter Axelson and other staff members from Beneficial Designs, Inc., for their extensive work on the project that lead to the USDA Forest Service publication “Accessibility Guidebook for Ski Areas Operating on Public Lands,” upon which this publication has relied heavily.

We especially appreciate Dr. David Johnson of Wilderness Medical Associates for generously sharing his knowledge concerning medical information needs and how to gather that information appropriately and in a timely manner from clients.

Dr. Johnson wrote the section on Medical Information located on page 11 of this guidebook.

Finally, we would like to recognize and thank John Boretsky of the New Mexico Council of Outfitters and Guides and David Brown of America’s Outdoors, as well

as outfitter/guide members of that organization, for their review and input.

Written comments are appreciated. Submit comments to: Accessibility Program Manager, USDA Forest Service, Recreation Program, 201 14<sup>th</sup> Street SW, Washington, DC 20250 or by e-mail to [jzeller@fs.fed.us](mailto:jzeller@fs.fed.us).

## **INTRODUCTION**

The Americans with Disabilities Act of 1990 (ADA) has touched many lives, inspiring hope among many and anxiety among some. The goal of this guidebook is to provide a positive, and practical approach to serving all people, including people with disabilities, who wish to experience America's Great Outdoors.

This guidebook is a framework to better serve clientele. This framework should be thought of as a new approach to customer service, an approach that seeks to provide the right fit between clients and the services you provide.

A critical component of providing effective service is your employees' attitude when guiding and leading people on outdoor adventures. Bad attitudes are a major source of complaints. People with disabilities, like other clients, are going to respond first and foremost to what they perceive the guide's attitude is toward them.

The primary focus is accessibility to programs and activities. Accessibility to programs and activities is sometimes referred to simply as "program access" and includes all activities provided by authorized outfitters/guides. Facility accessibility will be referenced only briefly.

This guidebook will provide guidelines and suggestions about how to comply with the ADA and the Rehabilitation Act of 1973 (Section 504). Practical tips on how to accommodate various provisions of those accessibility laws will be provided.

However, this guidebook does not take a "compliance driven" approach. Instead, it provides suggestions to enable you to provide high-quality services for the broadest range of people.

### **FACILITY ACCESS VS. PROGRAM ACCESS**

When most people think about a person with a disability, they think of a person who uses a wheelchair—even though only 4 percent of the total number of people with disabilities use a wheelchair. Just as people who use wheelchairs represent a very small percentage of people with disabilities, providing wheelchair ramps represents a very small percentage of what needs to be done to provide access.

However, facility accessibility is an important issue. Access to facilities is required under the ADA if the facility has to be entered in order to participate in the program being offered. In order to ensure appropriate facility accessibility U.S. Department Agriculture (USDA) 7 CFR 15 b requires each recreation special-use holder, including outfitters/guides, determine the accessibility of programs and related facilities and develop a written transition plan for those programs that are not now accessible, as well as for any facilities that must be accessed to participate in that program. This transition plan should outline how and when the necessary changes to provide accessibility will be implemented. Accessibility is to be provided unless the cost to do so would be an undue financial burden for the outfitter/guide, based on the cost of the retrofit in comparison with the profit generated by the business. Tax credits are available for expenditures made to improve accessibility. The basic requirement is that whatever program is provided is to be provided to all participants, including people who have disabilities.

A primary basis of accessibility laws is that access goes well beyond physical structures.

Access needs to include the programs and services provided by an agency, company, or organization. While access to physical facilities represents a major leap forward, the need to provide access to programs and services is a more profound change—and more confusing.

Program access means that a person with a disability receives the same benefits from a program or service as anyone else. This is true whether the program or service is eating in a restaurant, visiting an historic site, or recreating outdoors. Perhaps the easiest way to think of program access is to think of the services that an authorized outfitter/guide provides (for example, fishing or hunting instruction, transporting participants, setting up camp, or guiding participants to the best opportunity areas) and ensure those services are available to all participants.

### **GENERAL INFORMATION**

In 2003, there were 55 million people with a disability living in the United States. This number is increasing by about 1 million each year. When you consider that most people recreate with family and friends, as much as 50 percent of the U.S. population will benefit from accessible programs and services. In addition the U.S. Census Bureau estimates by the year 2025 over 50 percent of the U.S. population will be over 55 years of age. One thing is certain—with advances in medical technology and the aging of “baby boomers,” the percentage of the U.S. population living with a disability will increase significantly over the next 25 years.

You probably know someone with a disability. It could be a family member, a friend, or an acquaintance. It could be you. Unlike other “minority” designations, a disability may, and probably eventually will include all of us since our abilities change over time. As you prepare to better serve people with disabilities, remember that you are also preparing to serve every one of your current clients as they move into different stages of their lives.

Much is made about the differences between people with disabilities and people without disabilities. Certainly, there can be differences. However, the differences imposed by disability are not usually what a nondisabled person thinks they are.

People without disabilities tend to think of the loss of function—the inability to walk, see, or hear. In most instances, they do not understand that the biggest challenge people with disabilities face are their perceived change in social status.

Over and over again, people with disabilities state that they can learn to accept and accommodate the physical limitations imposed by their disability. The hardest part is accepting the changes in the way they are treated by people who do not have disabilities. Friends who once went fishing with them, no longer do so. Strangers may avoid eye contact or gush with well meaning but misplaced sympathy at their loss.

### **LEGAL DEFINITIONS OF DISABILITY**

#### **Legal Definition**

Accessibility laws use a definition that focuses on functional issues. It defines people with disabilities as those with one or more of the following:



- ◆ A physical or mental impairment that substantially limits one or more of the major life activities of such individual,
- ◆ A record of having such an impairment, or
- ◆ Being regarded as having such an impairment.

Major life activities include walking, talking, seeing, hearing, working, and independently caring for oneself (that is, eating, dressing, or personal hygiene, etc.).

### **Appropriate Language**

The two terms most commonly used to describe a person who has a limitation are “handicapped” and “disabled.” A “disability” is a medically definable condition that causes a limitation. A “handicap” is a barrier. The barrier may be environmental—such as stairs that handicap a person using a wheelchair—or it may be a negative attitude, either held by the person who has the disability or by the person who does not.

The 1990 passage of the ADA established only two terms: “accessible” and “person with a disability.” The correct terms to use are a “person with a disability” or just “disability.” The term “handicapped” is offensive to many people. The term accessible is to be used to refer to facilities, parking spaces, etc., that are in full compliance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

Since language forms the basis by which we perceive and communicate, carefully select the words you use in written and spoken communication. Do not use negative words like “cripple,” “invalid,” or “lame.” These words suggest images that evoke pity, guilt, or lack of ability. Other terms that may be offensive to some people are “physically challenged”, “differently abled,” and “specially enabled.” Use terminology based in the laws and that is least offensive to the majority of people.

Never forget that people with disabilities are people. Always refer to the person before referring to a disability. For example, speak about a person who uses a wheelchair rather than “the wheelchair.” Refer to “people with disabilities,” instead of “disabled people.” Avoid words such as “normal” or “able-bodied” when comparing people who have disabilities with other clients.

The basic rule is to treat everyone with respect. Tips for interacting with people with disabilities are included at the end of this guidebook.

As an authorized outfitter/guide, expand your working knowledge of disability issues by actively seeking more information than is provided in this guidebook. A good place to start is by talking directly to people with disabilities and people who are knowledgeable about the subject.

## **RELEVANT LAWS AND LEGAL CONSIDERATIONS**

Significant precursory legislation to the Americans with Disabilities Act of 1990 includes the Architectural Barriers Act of 1968 and the Rehabilitation Act of 1973, as amended.

### **ARCHITECTURAL BARRIERS Act of 1968**

The Architectural Barriers Act (ABA) was the first measure passed by Congress to ensure access to facilities. The ABA requires that all facilities built, bought, or leased by or for a Federal agency be accessible.

### **REHABILITATION ACT OF 1973**

Section 504 of the Rehabilitation Act (Section 504) states: “No otherwise qualified individual with a disability in the United States shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive Agency” (29 U.S. Code 794).

Wilderness Inquiry in Grand Canyon ( Photo by T. Fredin).

Section 504, as amended, requires Federal agencies to provide accessible programs and facilities. It also requires agencies ensure that all programs and facilities operated on federally managed land be accessible, whether they are conducted by the Federal agency or by a private entity, such as an authorized outfitter/guide operating under a special-use permit, commercial-use license, concessions contract, or any other form of permit. Private organizations, such as youth camps, receiving any form of Federal assistance, including the use of federally managed land, are also subject to the provisions of Section 504.

Federal agencies are working to make the programs and services they operate accessible. They are also working with permit holders to ensure the requirements for accessibility are in compliance with the laws. Although implementation of Section 504 has been slow, all Federal agencies subject to the law must develop and implement accessibility regulations for the federally assisted or conducted programs they work with.

### **THE AMERICANS WITH DISABILITIES ACT OF 1990**

The ADA was modeled on Section 504. The ADA applies to State and local government services, public accommodations, public transportation, and commercial establishments.

To understand the ADA, it is important to remember several key points. First, the ADA is essentially civil rights legislation, in that it is designed to protect the rights of people with disabilities in employment, transportation, public accommodation, and access to public services.

An underlying concept of the ADA is that decisions for employment and program participation should not be based on stereotypes. Service providers cannot base their decisions simply on the fact that an individual carries the label of a disability. Instead, they must look to what that individual can do. If the individual can perform the basic functions of an activity, he or she must be permitted to participate.

Secondly, like Section 504, the ADA covers both facility access and access to programs and services. In other words, not only must buildings be accessible, but the activities that take place within and outside those buildings must also be accessible.

Third, the full implications of many areas affected by the ADA have yet to be determined. This includes outdoor recreation. The Federal entity charged with determining standards for accessibility, the Access Board, is working to establish standards on outdoor recreation (boating and fishing facilities, stadiums, swimming pools, etc.). To obtain the most recent regulations check the Access Board's Web site at <http://www.access-board.gov>. The current accessibility guidelines are also available on the USDA Forest Service accessibility Web site at <http://www.fs.fed.us/recreation/programs/accessibility>.

## **Five Titles of the ADA**

### *Title I, Employment*

Title I prohibits discrimination against any qualified individual with a disability with regard to job application procedures, hiring, advancement, job training, and other terms of employment. For more information regarding employment contact the Equal Employment Opportunity Commission at <http://www.eeoc.gov> or 800-669-4000 (Voice) or 800-663-6820 (TTY).

### *Title II, Public Services*

Title II requires that State and local governments, or agencies providing services on behalf of State or local governments, provide access to all of their programs, services, benefits, and activities.

### *Title III, Public Accommodations*

Title III is the area of the ADA that affects most outfitters/guides. Private businesses that own, operate, lease, or sublease places of public accommodation are included under Title III. Public accommodations are, generally, any place that provides goods or services to the general public, such as hotels, golf courses, and stores. Nonprofit organizations are also generally included under this title of the ADA.

Title III requires the removal of architectural barriers in existing facilities where such removal is readily achievable. When removal of barriers is not readily achievable, alternative services must be provided. Under Title III, new facilities or altered facilities must comply with the ADAAG.

Private clubs and religious organizations are not covered by Title III; however, an organized camp authorized under a special-use authorization and operated by a private club or religious organization would be affected by the provisions of Section 504 because its programs are dependent on the use of Federal managed lands.

*Title IV, Telecommunications*

Title IV requires that phone companies provide telecommunications relay services for people who have hearing or speech impairments.

*Title V, Miscellaneous*

Title V provides miscellaneous instructions to Federal agencies that enforce the law.

**SUMMARY OF ACCESSIBILITY LAWS**

Both Section 504 and the ADA state that organizations may not prohibit an individual with a disability from participating in or receiving the benefits of programs, services, and activities on the basis of disability. As an outfitter/guide, it is important that you understand that the services provided by operating on public lands are covered by the ADA and Section 504. Therefore, you should understand what is required and work toward providing it.

## **FACILITY ACCESSIBILITY GUIDELINES**

For facilities—from a technical point of view—there are many similarities between the accessibility standards used for ABA compliance and the accessibility standards used for Americans with Disability Act (ADA) compliance. The ABA accessibility standards are called the Uniform Federal Accessibility Standards (UFAS). ADA standards are called the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Privately owned businesses are required to use ADAAG, or their local State code with equal or greater requirements, in new construction and renovation. Also, note that the ABA and the ADA accessibility standards are in the process of being combined as the ADA/ABA Accessibility Guidelines, then only one set of accessibility standards will exist.

Authorized outfitters/guides operating with a special-use permit from the U.S. Department of Agriculture (USDA) Forest Service are required to meet the higher level of the two accessibility standards (ADAAG and UFAS). ADAAG is the higher standard in all cases EXCEPT for elevators. If a multistory facility is being constructed, an elevator is required under UFAS, even though that elevator might not be required under ADAAG. The UFAS and ADAAG guidelines are available on the Forest Service Accessibility Web site at <http://www.fs.fed.us/recreation/programs/accessibility> or from the U.S. Access Board at <http://www.accessboard.gov>.

## **INTERPRETING THE LAWS**

Many business owners want hard and fast rules on how to implement the ADA, and they are frustrated when they get the answer “it depends.” However, with laws as broad ranging as the ADA, it takes time for standards to evolve, especially when those standards involve broad concepts such as programs and services. The ultimate legal impact of the ADA will be determined as cases come to trial and are ruled on by the court system.

### **SAFETY CONSIDERATIONS**

Although many outfitters/guides may perceive a potential conflict between accessibility needs and safety concerns, most anticipated conflicts are misperceptions, based on stereotypes and misinformation about access measures. There is no obligation to compromise client safety to provide for accessibility. Safety must never be compromised.

### **CIVIL PENALTIES FOR VIOLATING THE ADA**

Civil penalties for violating the ADA vary somewhat according to the different sections of the law.

#### **Title I, Employment**

This section has the most severe penalties for violation. Since this is not the emphasis of this guidebook, we will not go into detail other than to advise you that you may be liable for compensatory and punitive damages if you discriminate against people with disabilities in your employment practices.

#### **Title II, Public Services**

The penalty for publicly funded businesses is injunctive relief—which means they will have to “right the wrong.” In some instances, a plaintiff may be able to get punitive damages if it was a serious violation.

#### **Title III, Public Accommodations**

This is the section that will affect most outfitters/guides. The primary penalty here is injunctive relief for righting the wrong. In other words, if an individual with a disability sues and wins, the outfitter/guide may have to provide the service that is being asking for. However, if the nature of the violation is very serious and of public interest, the U.S. Department of Justice may level a \$50,000 fine for the first offense and a \$100,000 fine for the second offense.

Title III of the ADA does not allow a private individual bringing a lawsuit to receive general, compensatory damages, including damages for pain and suffering, or punitive damages. However, the ADA does not prevent an individual from suing under State law for emotional distress or other monetary damages. Therefore, your State human rights laws are much more likely to have an impact on you in the event of a lawsuit.

### **LIABILITIES**

#### **Product Liability**

Although there are few black-and-white rules, generally speaking, safety equipment or safety features should never be modified. If you are unsure about a modification,

don't do it. For example, beware of modifications that inhibit dismounting from a horse or detachment from a piece of equipment, increase the risk of entanglement, or provide a false sense of control or security.

### **Tort Liability (Negligence)**

As an authorized outfitter/guide, you may be found liable if you fail to meet a duty of due care. Consider the following:

1. Was there an assumption of risk? For example, was the injured person aware of the risk and voluntarily assumed it?
2. What are the legal duties and protections of immunities under the laws of the State where you are located?

Because of the differences in local laws, legal climate, and facts and circumstances, consult with your own legal counsel on matters of potential liability.

### **Risks to Employees**

The ADA states that legitimate safety requirements necessary for safe operation may be imposed, but that these requirements must be based on actual risks and not on speculation or stereotypes about people with disabilities. Make your employees aware of risky situations and have them seek assistance from management if they have questions. The following are some situations that would pose a risk to employees.

One situation would be an individual who requires assistance transferring from a wheelchair into equipment and whose weight exceeds the safe lifting capacity of available employees. There is no legal requirement for an authorized outfitter/guide to provide staff to lift, carry, etc., a client. However, you are required to inform each potential client—before he or she signs up for the program—what physical requirements

must be met to participate, including if these requirements may be met with the assistance of a companion who accompanies the client. These requirements should be laid out in the **essential eligibility criteria** for the program.

Another situation would be individuals with easily communicable diseases, such as measles or chicken pox. Because employees and other clients would be at risk of catching the disease, a person with an easily communicable disease could be denied participation in the outfitter/guide's program.

However, individuals with AIDS or other blood-borne pathogens may not be denied participation because these conditions are not easily transferred from one individual to another. These individuals are protected from discrimination, on the basis of that person's disability/disease, under the ADA.

### **Managing Liability**

Liability exposure is a fact of life for authorized outfitters/guides. In all cases, adhere to what lawyers call the "standard of care" regarding liability. In other words, follow the accepted industry practice or what a reasonable person would expect in the situation.

General suggestions for managing liability include:

1. Provide thorough employee training, especially on how to safely accommodate everyone, including people with disabilities. Trained instructors and employees are your best safety policy.
2. Review your general policies to ensure that they meet or exceed the standards for your field. A number of outdoor organizations have produced safety standards for specific activities. The most used set of standards was developed by the Association for Experiential Education (AEE) of Boulder, CO. You can contact the AEE at <http://www.aee.org> or 303-440-8844. *Accepted Peer Practices in Adventure Education*, published by AEE, has been followed by a number of outdoor adventure agencies to set their own standards and procedures.

In 1990, AEE published *Safety Practices in Adventure Programming*, by Priest and Dixon. The contents are a comprehensive discussion of safety and leadership responsibilities, as well as specific safety measures for most outdoor recreation adventure activities (for example, camping, bicycle touring, rock climbing, caving, skiing, kayaking, canoeing, and sailing).

## **MEDICAL INFORMATION**

It is extremely important to obtain medical information from **all** participants, with and without disabilities.

Some outfitters/guides use medical release forms in lieu of any medical evaluation process before embarking on a trip or activity. In many cases, these forms do not collect enough information. Obtaining useful information about a person's medical conditions and special needs, frequently referred to as medical screening, goes hand-in-hand with defining nondiscriminatory essential eligibility criteria and keeping an eye toward safety. This is not intended as an exclusionary process. Rather, it helps staff prepare for any potential special needs and gives them a heads-up about individuals who have medical conditions that may require special vigilance or be incompatible with the activity chosen. The actual collection process, filing and interpretation can be done in a variety of ways, depending in part on the length and the location of the activity. Questions pertaining to the process include:

1. What is the person's normal level of activity? Is this person aware of the essential eligibility criteria? Has this person ever done anything similar to the proposed program? If so, were any modifications necessary?
2. Does the person have any known medical conditions? If so, are those conditions stable?
3. Is the person on any medications? If so, for how long? Have the dosages been stable? When appropriate, does the person have an adequate supply properly and safely containerized?
3. Is the person aware of any known or predictable problems with the medical condition



and/or medications in the environment and/or activity?

5. Does the person require special appliances? If so, have they been used in an activity similar to the one proposed? What if any modifications were necessary?
6. If forms are to be used, are they accessible for an emergency and yet kept in a secure place so that the client's confidentiality is not compromised.

Medical conditions like asthma, diabetes, pregnancy, coronary artery disease, seizures, chronic orthopedic conditions, and substance abuse are commonly encountered. In addition, there are some medical conditions that are incompatible with certain activities either because of the present condition (e.g., a rigorous backpacking trip in the mountains for a person with recurrent angina awaiting a cardiac procedure) or because of the environment (e.g., sustained frigid conditions for a person with Raynaud's). In the end, sound, fair, and safe decisions are most likely to be derived from a combination of a clear understanding of the program, good information, and a level-headed and unbiased assessment. It is, therefore, helpful if the person evaluating the information has a medical background and understands the program. Having access to an advanced level practitioner (e.g., nurse, physician assistant, physician, emergency medical technician-Paramedic) as a consultant is wonderful luxury.

## **GUIDELINES FOR DEVELOPING AN ACCESSIBILITY STRATEGY**

### **ESSENTIAL ELIGIBILITY CRITERIA**

Under the ADA and Section 504, a person with a disability cannot be denied participation in an outfitter/guide's program that is available to people who do not have disabilities, unless the person with a disability does not meet the "essential eligibility criteria" that is applied to all people prior to participation in that outfitter/guide's program.

### **Strategies for Essential Eligibility Criteria**

Outfitters/guides provide a wide spectrum of activities and programs. The purpose of essential eligibility criteria is to establish whether or not an individual can participate in an activity based on his or her ability to perform the basic functions of the activity. In order to participate in an activity, **all** potential clients must be able to meet the nondiscriminatory essential eligibility criteria established by you as the outfitter/guide for that specific activity.

The essential eligibility criteria for each program must be provided and applied to **all** potential clients. If the essential eligibility criteria is only applied to potential clients who have disabilities, the criteria would likely be considered to be discriminatory if put to a legal challenge.

### **Strategies for Developing Essential Eligibility Criteria**

The information provided in this section concerning essential eligibility criteria is paraphrased from the draft *Universal Access: Guidelines for Outfitters Operating on Public Lands* by Greg Lais of Wilderness Inquiry in 1995.

The purpose of developing essential eligibility criteria is to give both the outfitter/guide and the potential client the information they need to make an accurate, objective assessment when deciding if their abilities are appropriate for a specific program. This means that employees must be able to clearly explain the criteria for participation. The criteria must be based on functional components and applied equally to **every** potential client. Instead of an outfitter guide disqualifying a person from registering for a program or trip because the potential client uses a wheelchair, the program provider must apply the criteria for safe participation in that activity.

In reality, the concept of essential eligibility criteria is something most outfitter/guide programs already apply to potential clients—that is following your own goals, concepts, and guidelines in determining which potential clients are likely to be able to participate successfully in the program. The problem is that often outfitters/guides orally pass their program's traditions and do not have these criteria written down. If essential eligibility criteria are not written down, two mistakes may be made in applying the criteria to a potential client who has a disability.

- ◆ **Subjectivity:** The employee has heard the owner discuss the importance of various criteria for participation and so passes along this information to potential clients as best

he can recall using nonspecific terminology. As a result, the information conveyed may be incomplete, leading to confusion or a safety issue resulting in a claim of discrimination. Document your eligibility criteria so that it is clear to employees and potential clients.

- ◆ **Stereotyping:** Many program providers are forced to make quick assessments of a potential client's abilities without any real knowledge of the potential client's capabilities. Many people have some stereotypes about the abilities of people with disabilities. When these stereotypes shape the decision process, a potential client, who has a disability, may be discriminated against.

Developing essential eligibility criteria is similar to developing a job description. Employers must identify the essential and nonessential functions of a job, and then determine whether the individual can perform those essential functions. Following this logic, identify the basic eligibility criteria of the experience your program is providing and then determine whether the individual can safely perform those functions.

In determining whether a person can successfully participate in your services, you must base your decision on what an individual can do—not subjective items or a stereotype. If they can perform the basic functions of an activity, they can participate.

### **Steps To Developing Essential Eligibility Criteria**

Developing guidelines based on what you need your clients to be able to do should be an easy process. You may already know your guidelines—you just need to write them down. The following steps will help you in this process.

1. Determine the physical and mental abilities necessary for participation in your programs and activities. What abilities are necessary to participate in the specific activities of your program, such as using a fishing rod or rifle or riding a horse or mountain bike? Do you have to be smart? Do you have to be strong? Do you have to understand directions? Do you have to understand any highly technical factors of equipment operation? Could you use adaptive equipment?
2. Break the activity into the basic stages of participation (for example, putting on equipment, using equipment, and returning equipment to a specific area). In effect, you need to separate the program into the discrete activities or variables that make up the program. Could a companion safely assist an individual in the completion of the task?
3. Consider the abilities necessary to remain safe. What are the most likely causes of death or injury involved with that activity and what does someone need to do to avoid them?
4. Prioritize the stages described in number 2 into the critical abilities needed to be safe. For example, in the case of riding a bike, an essential ability would be to balance, steer, and stop the bike. This ability is a higher safety priority than the abilities to shift gears or

read a map. Do not use limiting words like walk, climb, or see, instead describe the end result that must be accomplished in nondiscriminatory terms, such as access, ascend, or identify.

5. Consider basic rules or etiquette that the participant must follow. These include issues such as yielding to others who have the right of way or waiting for the rest of the group to catch up.
6. Determine if the guidelines may be satisfactorily met with the help of a companion. An individual may not be able to perform a function independently, but that same individual might easily do it with the help of a friend, family member, employee, or attendant.
7. Edit for simplicity. Stick to the basic physical or mental abilities necessary to participate—the fewer the better. Refer to an activity in terms of who can participate, rather than in terms of who can't.

### **Examples of Essential Eligibility Criteria Guidelines**

The following are examples of essential eligibility criteria that an outfitter/guide may have for determining whether a person can participate in an activity.

#### *Guided/Rental White Water Float Trips*

Each participant must have the ability to:

- ◆ Wear all protective equipment recommended/required by industry standards.
- ◆ Enter and exit the raft (boat, canoe, kayak ) independently or with the assistance of a companion.
- ◆ Remain seated and balanced using adaptive equipment if necessary.
- ◆ Get out from under the watercraft, remain face up in the water with the aid of a lifejacket, and make progress to the shoreline, in the event of a capsiz.
- ◆ Move about the camp independently or with the assistance of a companion, on trips including overnight camping.
- ◆ Move the watercraft independently or with the assistance of a companion—through the water in a stable manner and return it to the rental area.

#### *Guided Nonmotorized Hunting Trip*

Each participant must have the ability to:

- ◆ Meet qualifications to obtain the State hunting license.
- ◆ Enter, sit stably, and exit the transport vehicle independently or with the assistance of a companion.
- ◆ Move through (specific type of hunting terrain and vegetation) to the hunting sites, independently or with the assistance of a companion. Understand and apply safe hunting techniques.
- ◆ Identify the quarry independently or with the assistance of a companion.
- ◆ Safely shoot and reload a big-game weapon, using adaptive equipment if necessary.
- ◆ Implement outfitter/guide's emergency procedures in the event of an accident.

- ◆ Move about the campsite independently or with the assistance of a companion on trips including overnight camping.

### **Methods of Providing the Essential Eligibility Criteria**

Provide potential clients with the essential eligibility criteria by placing it on your Web site as a portion of the specific program's description, on any brochures or other materials provided to potential clients, and as part of the registration materials signed by the client.

### **Essential Eligibility Criteria and Providing Equal Opportunity in the Most Integrated Setting**

The accessibility laws state that programs shall be provided in the most integrated setting possible. The most integrated setting is the one that enables interaction among people with and without disabilities as much as possible.

People with disabilities who meet the essential eligibility criteria may not be denied the right to participate in any activity, even if a separate program for people who have disabilities is available. Separate programs specifically for people with disabilities are only acceptable when necessary to provide equally effective benefits and services. **Programs are not required to guarantee successful participation, but they must offer equal opportunity for participation.**

### **STRATEGIES FOR DETERMINING ACCESSIBILITY**

Because of the number of disabling conditions with a medical diagnosis—including arthritis, low vision, hearing loss, spinal cord injuries resulting in paralysis, and Multiple Sclerosis (MS) determining accessibility needs can be confusing. Despite the differences in diagnosis and accessibility needs, the common thread in providing accessibility is that many people with disabilities due to these conditions successfully participate in a wide range of programs and activities.

### **Use the Functional Approach**

It is easy to be bewildered by the names and number of all the disabling conditions that exist. Since there are thousands of disabling conditions listed in medical texts, this is no surprise. Fortunately, there is an easier, more effective approach to the issue than memorizing all the conditions that affect the human body. Adopt a learning attitude that considers both functional issues as well as specific disabling conditions.

The functional approach is based on what people can actually do. This method helps to simplify the process of accommodation because it promotes a “common sense” approach that most people can easily understand. Functional issues include things like being able to walk, talk, and get dressed independently.

The simplified nature of the functional approach does have significant limitations. Because it is generalized, the functional approach does not always capture circumstances that may be specific to a particular condition. Therefore, become more familiar with specific disabling

conditions that could have a significant impact on the safety and quality of the service you are providing.

For example, two individuals who use wheelchairs may appear to have very similar functional capabilities. However, one person uses a wheelchair because of a spinal cord injury, while the other one uses the wheelchair because of MS. A spinal cord injury is a static injury, while MS is a progressive disease process.

People with MS can also be susceptible to fatigue and exhaustion due to heat. Weather conditions can exacerbate their disability. Persons with spinal cord injuries—especially those with high-level injuries—face different problems from heat. In some cases a spinal cord injury inhibits the body's ability to sweat, greatly increasing the possibility of heat stroke. You will be better able to safely meet client expectations if you know the different ramifications of these two conditions.

Learning about disabling conditions may seem like a daunting task, but it need not be. You can increase your knowledge by—

- ◆ Talking with potential clients about their specific situation in the context of the activities they are about to participate in. Most will be eager to share the relevant information.
- ◆ Developing contacts with resource people who can answer specific questions and provide training. Examples include your local Center for Independent Living (CIL) or State Council on Disability.

#### **STEPS IN DEVELOPING YOUR ACCESSIBILITY STRATEGY**

- 1. Develop and implement essential eligibility criteria** (see page 15-19)
- 2. Use proper language in brochures, Web sites, etc.** Basic guidelines for proper language can be found on page 3.
- 3. Become familiar with the TTY relay system.** For communicating by phone, people who are deaf or have difficulty speaking often have a teletypewriter or text telephone (TTY ). A TTY is a simple, low-cost telecommunications device that allows a person to type the message they want to send, and it is transmitted cross the telephone lines.

Each State provides a relay operator who can be reached by dialing 711. This operator has the equipment to connect a person using a TTY with a person using a voice phone. Through this relay process, a business that does not have a TTY can interact with a client who uses a TTY. Information about TTY's can be obtained from your local CIL.

- 4. Make your brochures and literature available to people with visual impairments or who are blind.** There are four basic ways to make your literature more available to persons who have some level of blindness. They include:
  - ◆ **Large print.** With the technology of today, it is easy to increase the size of print to make it more readable. For all people, 14 point type makes print user

friendly, 18 point type is the legal standard for large print.

- ◆ **Color and contrast.** Use colors that provide a sharp contrast.
- ◆ **Audio cassette.** People who are totally blind may need an audiocassette of your literature. There are professional services that do this, but it can also be done in-house with a tape machine and a tone indexing microphone.
- ◆ **Personal reader.** Inevitably, there is some information people will need that is not in user-friendly form. In these cases, you can offer to read it to the person directly.

5. **Remove architectural barriers in existing facilities.** Plan for accessibility when building new facilities or renovating existing facilities. Work with architects and contractors familiar with the ADAAG.
6. **Know your resources.** Knowing who to turn to for more assistance is critical! If you're not sure where to start, consider the CIL closest to you. You could also try your State's office or council on disability and disability issues. These contacts can tell you where to look for a broad range of issues, including architects, sign language interpreters, accessibility consultants.
7. **Include disability awareness in your employee training.** There are many issues your employees should be aware of when assisting people with disabilities. A brief list includes:
  - ◆ The increasing number of people with disabilities
  - ◆ Social integration
  - ◆ Proper language
  - ◆ Principles of adaptation
  - ◆ Functional issues
  - ◆ Disability-specific issues
8. **Use new advertising channels for outreach.** Most people with disabilities recreate with family or friends who may not have disabilities. By including information about the accessibility of your business in your advertising, the potential clients, whose group includes a person with a disability, will be drawn to your business over another business that does not address accessibility up front. Several magazines in the United States focus on people with disabilities, these are listed in the "Resources" section of this document.
9. **Develop community contacts for cooperative marketing and outreach.** No matter where you are located, there are individuals and organizations that are willing to work with you to provide services for people with disabilities. Consider approaching the following types of organizations:

- ◆ **Centers for Independent Living.** As a national network of independent organizations, the CIL's work to promote independence among people with disabilities. This network is active in every State, and they should be able to answer your questions or steer you in the right direction. To locate the nearest CIL in your area, contact the National Council on Independent Living at <http://www.ncil.org> or 703-525-3406 (Voice), 703-525-4153 (TTY).
- ◆ **Disability advocacy organizations.** All significant disabilities have one or more advocacy groups associated with them. This includes organizations such as the National Spinal Cord Injury Association, National Head Injury Association, the Federation of the Blind, and the Multiple Sclerosis Society. The Internet can connect you to a wide range of organizations through a quick Web search. By typing in the name of a specific disability one can reach the Web sites of related advocacy groups. In many cases, these organizations also have State and local affiliate groups listed in the phone directory. These groups can be excellent sources of information, networking, and employee training.
- ◆ **Disabled veterans organizations.** These include Paralyzed Veterans of America (PVA), Disabled American Veterans (DAV), as well as the Veterans Administration (VA).
- ◆ **Health care professionals.** Most health care professionals involved with rehabilitation recognize the importance of social integration. Some are also outdoor recreation enthusiasts. The following may be especially helpful:
  - Recreation therapists
  - Physical medicine and rehabilitation physicians
  - Physical therapists
  - Occupational therapists

## **MARKETING GUIDELINES**

Marketing your programs to better serve people with disabilities is a challenging undertaking, but it can be rewarding. Instead of marketing to people with disabilities, try taking the more universal approach and marketing your services to what we might call “nontraditional” clients. People with disabilities come under this category, as do people who are elderly, families with small children, and many others.

### **Know Your Clients**

Most authorized outfitters/guides know how well their services meet the needs of their traditional clients. You may not, however, know how your facilities and services will meet the needs of a client with a disability. To learn more—

1. Read this guidebook.
2. Remember that people with disabilities, like every other client, respond to your attitude. You are likely to win their business if you are friendly, open, and willing to look into



new and unusual situations.

3. Invite people with various disabilities to visit your facilities and sample your services. Their feedback can help you identify what you need to do.
4. Visit with other authorized outfitters/guides that currently serve people with disabilities. Ask your local permit administrator for names of authorized outfitters/guides who have accessible programs of this type.
5. Be sure that what you think is accessible really meets the legal criteria for accessibility under the guidelines. Advertising that a program or facility is accessible—only to have a person with a disability discover it is not – will not be good for your business. Check the accessibility with the local USDA Forest Service permit administrative or accessibility coordinator.

### **Plan Your Message**

Inform people with disabilities that you are interested in serving them, and avoid confusing or discouraging potential clients who do not have disabilities. Unfortunately, the first goal is easier to accomplish than the second goal.

As with everyone else, people with disabilities are subject to many stereotypes. A non-disabled person planning to sign up with an authorized outfitter/guide may believe that they will not have the same experience if a person with a disability is included in the group. Therefore, in planning your message, it is critical that you convey to all potential clients that the inclusion of people with disabilities will not diminish their fun and adventure. In short, we recommend that people with disabilities be portrayed as people with the same interests and needs as anyone else. Including photographs of people with disabilities fully participating in something that's fun and adventurous can do this. You can also do this by stating that your programs are open to people with disabilities, but in a subtle manner. Advertising a program "for the disabled" will attract only a small proportion of people with disabilities and very few persons without disabilities. But, a program offered for people with a range of ability levels could be attractive to many participants. If your facilities are accessible, say so.

### **Know What to Avoid**

Sometimes it is just as important to know what to avoid as it is to know what to do. In all cases avoid—

- ◆ **Inappropriate language.** Most people today recognize the need to avoid terms that patronize women, people of color, and other minority groups. The same is true for people with disabilities. Brochure copy that reads "Introducing tour for the able and the handicapped" is just as inappropriate as copy that reads "Introducing tours for housewives."
- **The correct term is person with a disability**—the person first. As in a person who uses a wheelchair, or a person who is deaf.
- **Do not use the term "handicapped"**—that term comes from "cap in hand" or

begging. The term came into use after the Civil War when returning veterans who were unable to work due to their disabilities were forced to beg on the street.

- **Accessible**—is the term used to describe facilities that comply with the ADAAG.
- ♦ **Patronizing approaches.** Any references to people with disabilities as less fortunate, less capable, or more special should be avoided.
- ♦ **Promises that cannot be delivered.** Undeliverable promises are bad in any business. Do not state that your facilities are totally accessible if they are not. Don't say you know when you don't.

### **EXISTING FACILITIES AND TRANSITION PLANS**

A facility must be accessible if clients have to enter it in order to participate in the services offered by your business. If a client has to enter the facility, evaluate its accessibility to a person with a mobility, hearing, or visual impairment or learning disability. Can an individual with such a disability enter, participate in all aspects of the services inside the facility, and exit along with the other clients. For any inaccessible facility or service that must be accessed to participate in the program offered, develop plans about how and when changes will be made to bring the facility or service into compliance with the ADAAG. This is your transition plan.

The steps required to develop a transition plan are found in United States Department of Agriculture 7 CFR 15 b .18 (g).

1. Identify the physical obstacles that limit access to the program by people with disabilities.
2. Describe in detail the methods that will be used to remove those obstacles or to otherwise make those facilities accessible.
3. Specify the schedule for taking the steps necessary to achieve full program accessibility. If the steps will take longer than 1 year, identify the steps to be taken each year.
4. Identify the person responsible for implementation of the plan.
5. Involve people with disabilities in the development of the transition plan.
6. Make the plan available to the public for review.

The USDA Forest Service will review your transition plans, make recommendations, and provide final approval. The transition plans will become part of your special-use authorization file and will be reviewed when your permit is reviewed.

The more developed and extensive your program is, and the more financial resources you have at your disposal, the more accessible your facilities are required to be. For example, a large, profitable business might be required to place an elevator in a multistoried building. Whereas a small business with few profits might have a plan ready to relocate the services provided on the upper storied of their building to the first floor, as needed, when a customer

with a disability can't climb the stairs to those upper story services.

If you are a small business with fewer financial resources, and providing accessibility to your facility would cause an undue financial burden for your business, you will need to identify ways to provide your outfitter/guiding program without depending on those inaccessible facilities. The key is to find a cheap and easy way to deliver your programs' services to all people, including people who have disabilities, and to do so in an integrated setting.

The Internal Revenue Service allows tax credits for dollars spent to improve the accessibility of your business.

## **GENERAL CONSIDERATIONS**

### **COMPETENCY REQUIREMENTS**

A competency exam cannot be required for a person with a disability, unless all participants in your program are required to take the same competency exam. There are programs, such as advanced rock climbing, hunting, etc., where skills are tested before entering. This is acceptable if all participants are tested.

### **EQUIPMENT SAFETY**

You cannot require persons with disabilities to follow safety procedures not followed by all other participants. For example, you cannot require a person with a disability to wear a helmet, or a lifejacket, etc., unless all other participants are also required to use that safety equipment. Also, a person with a disability cannot require that you adapt equipment or procedures in such a manner as to impede or lessen the effectiveness of the safety procedures or equipment.

### **DISCOUNTS**

You do not need to provide a discount in the participation fee solely because a person has a disability.

### **PERSONAL ASSISTANTS**

Some individuals with disabilities have a personal assistant to help them perform their daily functions. If that assistant accompanies the person with a disability on an outfitted or guided trip and is a full participant in the trip (for example, hunts, fishes, climbs, rides, etc.) with all other participants, you may charge the assistant the same fee as all other participants are charged. However, if the assistant is only partially involved, that is, eats all meals with the group but does not fish, hunt, etc., and only assists the person with the disability to do so, you could consider charging a pro rated fee for the assistant.

A personal assistant would always be paid for their services by the individual who has the disability, not by the outfitter/guide.

### **RENTAL OF STANDARDIZED ADAPTIVE EQUIPMENT**

Some standardized outdoor recreation adaptive equipment is available through specialty companies, a number of which are listed in the “Resources” section to this publication. You do not have to maintain a stock of such equipment for rental. However, if you have such equipment available, and advertise that fact, it could serve as draw to increase participation by persons with disabilities.

### **PROOF OF DISABILITY**

Medical information is confidential. Such information can only be required by an outfitter/guide when the same information is required of all potential clients prior to acceptance in the program. The outfitter/guide must inform the potential client how the information will be used and with whom it will be shared.

### **RELATED ACCOMMODATIONS**

#### **Day Care**

If day care is provided, children with disabilities must be accepted unless they would

fundamentally alter the nature of the program. The document entitled “Child Care Centers and the ADA” is available from the Department of Justice on their Web site at <http://www.usdoj.gov> or by calling 800-514-0301 (Voice) or 800-514-0383 (TTY).

All food services provided by the outfitter/guide must be accessible to people with disabilities. The ADAAG provides specific information about accessibility, specifically table dimensions and reach ranges. There is no requirement to provide for special diets.

### **Transportation**

If provided, transportation must be accessible as outlined in Title III of the ADA. Information about public transportation for people with disabilities can be obtained from the Federal Transit Administration on their Web site at <http://www.fta.dot.gov> or by calling 888-446-4511 (Voice) or 800-877-8339 (TTY).

If the cost of providing specialized accessible over-the-road transportation would be an undue financial burden for the outfitter/guide, there may be opportunities to provide alternative transportation. For example, if transportation is provided by the rock climbing school or a rafting company from the company’s store to the site where the activity is to begin, the individual who is physically unable to step up into the van or bus used to transport the other clients could be offered a discount in the cost of the trip in return for providing his/her transportation in their own vehicle.

If provided, lodging must be accessible. Information about complying with accessibility laws as they relate to lodging can be obtained from the U.S. Department of Justice on their Web site at <http://www.usdoj.gov> or by calling 800-514-0301 (Voice) or 800-514-0383 (TTY).

If developed campsites are provided by the outfitter/guide those campsites are to comply with the Outdoor Recreation Accessibility Guidelines for campgrounds and related constructed features. Those guidelines are available at <http://www.fs.fed.us/programs/accessibility>

## FREQUENTLY ASKED QUESTIONS?

### 1. What do I have to do to reduce the risk of a lawsuit?

There is no foolproof way to avoid a lawsuit. However, if you make a good faith effort, your odds of being successfully sued should be reduced.

The bottom line in avoiding an accessibility-related lawsuit is to not deny services or accommodations to anyone solely because that person has a disability. **You may decide that you cannot safely and effectively serve someone, but this decision must be based on an objective process that is equally applied to everyone—through the essential eligibility criteria.** Also, you may have to change a policy, modify a practice, or provide an accommodation if these changes are deemed reasonable.

Most importantly, you should realize that people with disabilities are, above all else, people. If you or your employees are hostile, unwilling to listen, and prone to react based on stereotypes, you are much more likely to be sued than accommodate people with disabilities with dignity and respect. As a business, your attitude toward your clients is perhaps the most important determinant in their evaluation of your services.

### 2. Do I have to remodel or build new facilities to meet accessibility requirements?

Yes, if a potential client would have to enter your facility to participate in your program. According to the law, the programs and services of places of public accommodation and commercial facilities must be accessible to and usable by people with disabilities.

Accessibility laws require that public accommodations remove architectural barriers in existing facilities where readily achievable. Readily achievable is defined as easy to accomplish, without much difficulty or expense. The overall financial resources of the site are considered in determining whether an action is readily achievable. The basic facility requirements are accessible parking, restrooms, drinking water, and telephones if those elements are provided by the business.

If registration for your program is exclusively via the Web, mail, or phone, and you meet your clients on site at the national forest, your facilities would not be required to be accessible because clients do not access them. However, if registration for your program is exclusively via the Web, mail, or phone, but you pick up the clients at the airport, transport them to your home, and provide them with a meal and sleeping facilities, the transportation, dining, and sleeping facilities would have to be accessible. The level of accessibility to be provided in existing facilities will depend on the financial worth of your business.

### **3. What if I can't make my program accessible because I can't make my facilities accessible?**

USDA 7 CFR 15b.18 (c) provides for an exception in extreme cases, however there are specific steps that must be followed. You must document each step for the USDA Forest Service and for the public that will likely question your actions.

If you have fewer than 15 employees:

- 1) Consult with people who have disabilities who are seeking to use your services.
- 2) If those people with disabilities agree that there is no method of providing your services that would not be an undue financial burden or difficult to achieve, refer persons with disabilities, who unable to access your program due to that facility obstacle, to other providers of the same service that are accessible.
- 3) Ensure that there is no additional cost to the person with the disability to use the alternate provider.

### **4. Do I have to let people with disabilities participate?**

Yes. An underlying concept of accessibility law is that decisions about participation are not to be based on stereotypes. You cannot refuse to allow a person to participate simply because that person has a disability.

The only time you can refuse to allow a person to participate is if that person does not meet the essential eligibility criteria for that activity that are applied to all your potential clients.

### **5. What are essential eligibility criteria?**

Essential eligibility criteria is a listing of the basic functions required to participate in an activity. Develop essential eligibility criteria and apply them to ALL participants. See page 15 for instructions on how to develop essential eligibility criteria.

### **6. Does inclusion of people with disabilities affect liability insurance coverage?**

There are two issues here—coverage and premium. Carefully review your policies to confirm limits, exceptions, and exclusions to your liability coverage. On the question of premiums, your insurance company can charge for service and coverage as it chooses. However, you can ask to see the actuarial tables—the factual information used to support the insurance companies increased premium—to determine if the insurance company is basing its decision on fact or on assumption.

### **7. What's the balance between personal responsibility of a participant**

## **with a disability and outfitter/guide responsibility?**

The responsibilities of the individual participant and the authorized outfitter/guide are the same whether the participant has a disability or does not. Participant responsibilities should be described in the essential eligibility criteria for the program.

### **8. Is there really a market for this?**

Yes. In 2003, there were 55 million people with significant disabilities and this number is increasing by about 1 million people each year.

People with disabilities recreate with their families and friends. They will go to places that provide good accessibility, so all can participate.

In addition, our population is aging. The U.S. Census Bureau estimates by the year 2025 over 50 percent of the U.S. population will be over 55 years of age. One thing is certain—with advances in medical technology and the aging of “baby boomers,”—the percentage of the U.S. population living with a disability will increase significantly over the next 25 years. Any improvements to accessibility will also benefit this segment of society.

### **9. Our outfitter/guide business offers lessons in the sport. Do I also have to offer adaptive lessons?**

Yes, you must be prepared to provide services and facilities to anyone who meets the essential eligibility criteria developed by your business.

### **10. Even though I don't permit animals in my business, do I have to allow a person to bring in their “service animal”?**

In most cases service animals are permitted to be with the person they assist. For further information, see the Web based publication “Commonly Asked Questions about Service Animals”, from the U.S. Department of Justice, listed in the resources section of this guidebook.

### **11. What do my employees need to know?**

All employees should know enough about people with disabilities to make informed decisions about how to best serve your clients. Educating employees about people with disabilities can eliminate many negative stereotypes and perceptions. Appropriate disability awareness training should be made available to all employees as part of the orientation process. Many local disability advocacy groups will provide this training to your employees for a small fee.

### **12. How can I help my employees be interested in also serving clients with disabilities?**



Most often, programs serving people with disabilities fail because of a problem many outfitters/guides face in seasonal operations—rapid employee turnover. All the training and facility modifications will be wasted if the employees are not enthusiastic or interested in serving all people, including people with disabilities. Some practical methods of improving employee attitudes and minimizing the problem of rapid employee turnover are:

- ◆ Evaluate the interest of employees and select one interested person who is likely to remain employed with you to act as coordinator of these new integration efforts.
- ◆ Provide that individual with the initial training to integrate people with disabilities and then get that person to train and assist other employees.
- ◆ Involve employees in planning and setting up outreach plans and making accessibility improvements at facilities.
- ◆ Revise job descriptions to include working with nontraditional clients.
- ◆ Form a network with agencies that serve people with disabilities.

### **13. What can I do to get started?**

A small investment in planning, training, facilities, and outreach can greatly benefit your business.

- ◆ Develop the essential eligibility criteria for your program, evaluate the accessibility of your facilities that must be accessed to participate in your program, develop a transition plan for those existing facilities that aren't accessible.
- ◆ Develop a catalog of all of your services and facilities so you can give everyone, including people with disabilities, accurate information about your services. Include the essential eligibility criteria for your programs. Provide this information in printed brochures and on your Web page.
- ◆ Develop or review registration procedures to learn more about all of your clients up front, without invading their privacy. For example, your application can ask – do you have any special needs?
- ◆ Provide disability awareness and customer service training for all employees.
- ◆ Including training in the use of the TTY Relay System.

The most important thing you can do is to make sure you and your employees have a positive attitude toward serving people with disabilities. You can also accept accessibility laws as a persuasive argument to get you moving in the direction the market is moving.

### **14. Where can I get more information about accessibility laws?**

For more information on the ADA, contact the ADA Hotline at the U.S. Department of Justice at <http://www.ada.gov> or by calling 800-514-0301 (voice) or 800-514-0383 (TTY). Your USDA Forest Service permit administrator can put you in contact with the USDA Forest Service accessibility coordinator.

Also, be sure to contact your tax professional to get information about tax credits and deductions available to businesses making changes in order to comply with the ADA.

## **15. How can the USDA Forest Service help me?**

The USDA Forest Service has accessibility specialists who can provide information in response to accessibility questions. Contact your USDA Forest Service permit administrator for more information.

## **APPENDIX A—INFORMATION**

The following are resources for information and publications that you may find useful in your efforts to serve people with disabilities, as well as to enhance overall customer service.

### **WEB SITE AND PHONE SUPPORT**

**ADA Information U.S. Department of Justice:** (<http://www.ada.gov>)

For technical assistance on the ADA provisions that apply to businesses and many other resources. You can also call the ADA Information Line at 800-514-0301 (Voice) or 800-514-0383 (TTY).

### **ADA Disability and Business Technical Assistance Center**

The number 800-949-4ADA (V/TTY) will automatically connect you to the regional center nearest you to help you with your ADA business related questions. The Web site is <http://www.adata.org>.

### **American Canoe Association**

Contact Adaptive Paddling Committee at 703-451-0141.

**Architectural and Transportation Barriers Compliance Board**, also known as the **Access Board** (<http://www.access-board.gov>) For technical assistance on ADAAG, call 800-872-2253 (Voice) or 800-993-2822 (TTY).

**Federal Transit Administration** (<http://www.fta.dot.gov>)

For questions about public transportation for people with disabilities, call the ADA Assistance Line at 888-446-4511 (Voice) or 800-877-8339 (TTY).

**Internal Revenue Service** (<http://www.irs.gov>)

For information about tax credits and deductions that can assist businesses in complying with the ADA, call 800-829-1040 (Voice) or 800-829-4059 (TTY).

**National Council on Independent Living** (<http://www.ncil.org>)

For information about this membership organization of independent living centers, call 703-525-3406 (Voice) or 703-525-4153 (TTY).

**Northeast Passage** (<http://www.nepassage.org>)

Northeast Passage is a self-funded program of the University of New Hampshire serving individuals with disabilities through recreation and health promotion. Call 603-8620070 or send e-mail to Northeast Passage at [northeast.passage@unh.edu](mailto:northeast.passage@unh.edu).

**Sundog Expeditions** (<http://www.salmonriverdories.com>)

Sundog Expeditions is a division of Salmon River Dories, Inc., an Idaho corporation, specializing in whitewater vacations, float trips, and wilderness adventures in Idaho, Oregon, and Alaska. Their 4- to 7-day trips are designed to meet the individual needs of each guest—from the novice camper to the experienced rafter. Call 888-455-5077.

**Wilderness Inquiry** (<http://www.wildernessinquiry.org>)

Wilderness Inquiry is a non-profit organization dedicated to providing backcountry

experiences for people of all ages, backgrounds, and abilities. Some of their material has been incorporated into this guidebook. Call 800-728-0719 or visit their Web site.

**Wilderness Medical Associates** (<http://www.wildmed.com>): Wilderness Medical Associates is committed to supplying the highest quality medical training to outdoor enthusiasts and professionals. Call 888-WILDMED (888-945-3633).

#### **PRINT MATERIALS**

***Canoeing and Kayaking for Persons with Disabilities***, by Webre and Zeller. Available from the American Canoe Association at 703-451-0141 or <http://www.acanet.org>.

***Universal Access: Guidelines for Outfitters Operating on Public Lands (draft)***. 1995. Contact Wilderness Inquiry, Minneapolis, MN, at 612-676-9400 or <http://www.wildernessinquiry.org>.

#### **CATALOGS**

**Access to Recreation.** For an adaptive recreation equipment catalog, call 800-634-4351.

#### **TRAINING**

**Adaptive Paddling Workshops.** Information and schedules are at <http://www.acanet.org> under Instruction/Instructor Certification /Upcoming Adaptive Paddling Workshops.

If you would like to recommend additional resources for this section, please contact Janet Zeller, USDA Forest Service Accessibility Program Manager, at [jzeller@fs.fed.us](mailto:jzeller@fs.fed.us).

## APPENDIX B—GLOSSARY

**ADA.** The Americans with Disabilities Act (ADA) of 1990 prohibits discrimination on the basis of disability. The ADA applies to State and local government services, public accommodations, public transportation, and commercial establishments.

**ADAAG.** The Americans with Disabilities Act Accessibility Guidelines provide standards for accessible design. New construction and alterations are subject to these standards.

**Adaptive Equipment.** For the purposes of this guidebook, “adaptive equipment” is equipment designed for use by a person with a disability to compensate for a specific loss of function.

**Authorized Officer.** The forest officer having the delegated authority to issue, suspend, terminate, revoke, or amend permits, operating plans, etc.

**Camp.** A location where people temporarily live or congregate in the outdoors.

**Compliance.** The holder’s actions are in conformance with permit terms and conditions, operating plan, regulations, and agreements.

**Duration of outfitted or guided trip.** The period that begins when the client first comes under the care and supervision of the outfitter or guide, including arrival at the holder’s headquarters or local community, and ends when the client is released from the outfitter/guide’s care and supervision.

**Essential Eligibility Criteria.** Essential eligibility criteria are a listing of the basic functions required to participate in an activity. The ADA states that public accommodations cannot impose or apply eligibility criteria that screen out or tend to screen out individuals with disabilities (paraphrased from ADA 28 CFR, Ch. 1 §36.301).

**Guiding.** Providing services or assistance (such as supervision, protection, education, training, packing, touring, subsistence, and interpretation) to individuals or groups in their pursuit of a natural resource-based outdoor activity for financial compensation or other gain. The term “guide” includes the outfitter/guide’s employees, agents, and instructors.

**Holder.** An applicant who has received a special-use permit to conduct outfitter/guide activities.

**Illegal Outfitter/Guide.** An unlicensed and/or unpermitted individual who operates as a commercial outfitter/guide or a properly licensed/permitted commercial outfitter/guide who operates outside the scope of the license or permit.

**Operating Plan.** A plan, mutually formulated by the holder and the authorized officer that describes how an outfitter will conduct operations and manage camps while occupying National Forest System lands. The plan is for the period of the permit and becomes a part of it.

**Outfitting.** Providing through rental or livery any saddle or pack animal, vehicle or boat,

tents, camp gear, or similar supplies or equipment for financial compensation or other gain. The term “outfitter” includes the holder’s employees, agents, and instructors.

**Readily Achievable.** Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include the nature and cost of the action needed and the overall financial resources of the site or sites involved (paraphrased from ADA 28 CFR, Ch. 1 §36.401).

**Section 504.** Part of the Rehabilitation Act of 1973. Legislation that requires Federal agencies, and those holding permits under Federal agencies, to provide accessible programs and facilities.

**Special-Use Authorization.** A permit, term permit, lease, or easement which allows occupancy, use, rights, or privileges of National Forest System land.

**Special-Use Permit.** A special-use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System land or facilities for specified purpose, and which is revocable, terminable, and noncompensable.

**TTY (teletypewriter or text telephone).** A device for communicating with people who are deaf or nonvoice by typing messages back and forth.

**Undue Burden.** Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, consider factors such as the nature and cost of the action needed and the overall financial resources of the site or sites involved (paraphrased from ADA 28 CFR, Ch. 1 §36.401).

## **APPENDIX C—TIPS FOR INTERACTING WITH PERSONS WITH DISABILITIES**

- ◆ Remember that people are still people, despite disabilities.
- ◆ Relax.
- ◆ Look directly at the person, maintain eye contact.
- ◆ When having a long conversation with a person who is in a wheelchair, stoop down or sit nearby so that you are closer to the same eye level.
- ◆ Do not lean on or use a person's wheelchair, crutches, etc., without their permission.
- ◆ Ask first if assistance is needed, do not assume that assistance is needed or wanted.
- ◆ Speak as you would normally. If you are speaking to a person who has a mobility impairment, you do not need to avoid words like run, walk, etc.
- ◆ When speaking to a person who is deaf or hard of hearing, be sure she/he has a clear view of your mouth. Keep hands, food, etc., away from your mouth while you are speaking. Ideally, mustaches should be cut short in order for the upper lip to be seen clearly.
- ◆ If your conversation is being interpreted by a sign language interpreter, speak to and look at the person to whom you are speaking—not the interpreter.
- ◆ When speaking to a person who has a visual impairment, be sure to introduce yourself by name. Use the clock method to assist the person in locating or avoiding something. The clock method uses the numbers of the clock for reference points: straight in front of the person is 12:00, directly behind is 6:00.
- ◆ Don't shout!

from Canoeing and Kayaking for Persons with Disabilities,

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## **APPENDIX D—COMMONLY ASKED QUESTIONS ABOUT SERVICE ANIMALS IN PLACES OF BUSINESS**

### **1. What are the laws that apply to my business?**

A: Under the Americans with Disabilities Act (ADA), privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities, are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.

### **2. What is a service animal?**

A: The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a State or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. “Seeing eye dogs” are one type of service animal, used by some individuals who are blind. This is the type of service animal with which most people are familiar. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- ◆ Alerting persons with hearing impairments to sounds.
- ◆ Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- ◆ Assisting persons with mobility impairments with balance.

**A service animal is not a pet.**

### **3. How can I tell if an animal is really a service animal and not just a pet?**

A: Some, but not all, service animals wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. If you are not certain that an animal is a service animal, you may ask the person who has the animal if it is a service animal required because of a disability. However, an individual who is going to a restaurant or theater is not likely to be carrying documentation of his or her medical condition or disability. Therefore, such documentation generally may not be required as a condition for providing service to an individual accompanied by a service



animal. Although a number of States have programs to certify service animals, you may not insist on proof of State certification before permitting the service animal to accompany the person with a disability.

**4. What must I do when an individual with a service animal comes to my business?**

A: The service animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go. An individual with a service animal may not be segregated from other customers.

**5. I have always had a clearly posted “no pets” policy at my establishment. Do I still have to allow service animals in?**

A: Yes. A service animal is not a pet. The ADA requires you to modify your “no pets” policy to allow the use of a service animal by a person with a disability. This does not mean you must abandon your “no pets” policy altogether but simply that you must make an exception to your general rule for service animals.

**6. My county health department has told me that only a seeing eye or guide dog has to be admitted. If I follow those regulations, am I violating the ADA?**

A: Yes, if you refuse to admit any other type of service animal on the basis of local health department regulations or other State or local laws. The ADA provides greater protection for individuals with disabilities and so it takes priority over the local or State laws or regulations.

**7. Can I charge a maintenance or cleaning fee for customers who bring service animals into my business?**

A: No. Neither a deposit nor a surcharge may be imposed on an individual with a disability as a condition to allowing a service animal to accompany the individual with a disability, even if deposits are routinely required for pets. However, a public accommodation may charge its customers with disabilities if a service animal causes damage so long as it is the regular practice of the entity to charge non-disabled customers for the same types of damages. For example, a hotel can charge a guest with a disability for the cost of repairing or cleaning furniture damaged by a service animal if it is the hotel’s policy to charge when non-disabled guests cause such damage.

**8. I operate a private taxicab and I don’t want animals in my taxi; they smell, shed hair and sometimes have “accidents.” Am I violating the ADA if I refuse to pick up someone with a service animal?**

A: Yes. Taxicab companies may not refuse to provide services to individuals

with disabilities. Private taxicab companies are also prohibited from charging higher fares or fees for transporting individuals with disabilities and their service animals than they charge to other persons for the same or equivalent service.

**9. Am I responsible for the animal while the person with a disability is in my business?**

A: No. The care or supervision of a service animal is solely the responsibility of his or her owner. You are not required to provide care or food or a special location for the animal.

**10. What if a service animal barks or growls at other people, or otherwise acts out of control?**

A: You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other guests or customers may be excluded. You may not make assumptions, however, about how a particular animal is likely to behave based on your past experience with other animals. Each situation must be considered individually.

Although a public accommodation may exclude any service animal that is out of control, it should give the individual with a disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

**11. Can I exclude an animal that doesn't really seem dangerous but is disruptive to my business?**

A: There may be a few circumstances when a public accommodation is not required to accommodate a service animal—that is, when doing so would result in a fundamental alteration to the nature of the business. Generally, this is not likely to occur in restaurants, hotels, retail stores, theaters, concert halls, and sports facilities. But when it does, for example, when a dog barks during a movie, the animal can be excluded.

If you have further questions about service animals or other requirements of the ADA, you may call the U.S. Department of Justice's toll-free ADA Information Line at 800-514-0301 (voice) or 800-514-0383 (TTY).

**Department of Justice 7/96**

**For more information go to [www.ada.gov](http://www.ada.gov).**